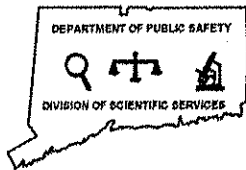


STATE OF CONNECTICUT



DEPARTMENT OF PUBLIC SAFETY OFFICE OF THE COMMISSIONER

John A. Danaher III
Commissioner

Lieutenant Edwin S. Henion
Chief of Staff

March 4, 2010

Rep. Stephen Dargan, Co-Chairman
Sen. Andrea Stillman, Co-Chairman
Public Safety and Security Committee
Legislative Office Building
Hartford, CT 06106

HB 5274 AN ACT CONCERNING THE SALE OF FIREARMS AT PUBLIC AUCTION

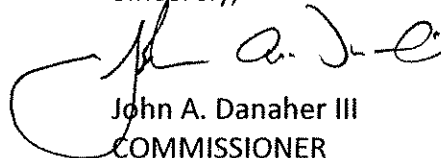
The Department of Public Safety opposes this bill.

1. This bill leaves both the Department of Public Safety and the State of Connecticut with significant potential liability in the event that a weapon or ammunition sold at auction either: a) malfunctions or is defective and causes an injury or death, or b) is later used in the commission of a crime. Damaged, fatigued, altered, or otherwise modified firearms may fail catastrophically when fired, and may cause serious injury or death upon doing so. Often such damage, fatigue, alteration, or modification can go unnoticed by all but the most accomplished gunsmith because it involves such things as microscopic cracking, improper headspacing, and/or alteration of the crystal structure of metal. Since inspection of firearms cannot be made to the point that safety can be adequately insured, the danger to individuals receiving firearms from a Connecticut sponsored auction is significant.
2. Even if liability could be effectively mitigated, it is simply not good public policy to put these guns back on the street. If an injury or death is caused by a firearm or ammunition sold by DPS at auction or if such a firearm is later used in the commission of a crime, the state of Connecticut would bear some responsibility.
3. Defining "inoperability" is another cause for concern. Inclusion of the term "inoperable" with respect to firearms presents serious practical compliance concerns due to the fact that "inoperable" firearms would be categorized as "parts," thus eliminating any need to comply with CT firearms transfer requirements. Additionally, the General Statutes do not currently contain a standard by which to assess operability of a firearm. While a firearm may not be presently functional/operable, it may only require minimal effort to achieve operability. This effort might, for example, consist simply of purchasing non-recordable

parts over the internet or through mail order, making the "inoperable" weapon now fully operable. In addition, an extremely complex and elaborate system of regulations / policies / unit orders, would be required to establish what "inoperability" meant for each particular type and model of firearm. For example, BATFE (Bureau of Alcohol, Tobacco Firearms and Explosives) Rule 2003-3 addresses making a particular weapon inoperable and requires that the receiver of the weapon have four "diagonal torch cuts that sever" areas of the weapon receiver. The BATFE has generated similar elaborate rules for several other weapons. To create "inoperability" protocols for each type and model of firearm would simply be impracticable based on testing, time, and resources.

4. The sale of an arrangement of "parts" may in fact be the sale of a functional or illegal firearm. For example, see *United States v. Thompson Center*, 505 U.S. 505 (1992), where the Court in dicta indicated that "an aggregation of parts that can serve no useful purpose except the assembly of a [NFA] firearm, or with an aggregation having no ostensible utility except to convert a gun into such a [NFA] weapon" would be the "making" or the possession of a [NFA] firearm.
5. The phrase "any ammunition" includes such things as remanufactured and hand loaded ammunition. Ammunition is manufactured new to certain industry specifications (e.g. the Sporting Arms and Ammunition Manufacturers' Institute (SAAMI) standards). These specifications are to ensure "safety, interchangeability, reliability and quality". Remanufactured or hand loaded ammunition has been identified as being potentially very dangerous. An inability to determine the provenance of ammunition offered for auction could potentially endanger the safety and lives of individuals who attempt to use that ammunition.
6. The bill only allows sales of pistols to those persons with a valid permit to sell or to carry, but makes no allowance for sales to those who are otherwise authorized to purchase firearms, such as those with an eligibility certificate or law enforcement.
7. There is also an issue of who will be responsible for assessing the retail value of the pistols and revolvers and what standard will they use. This is not something Department of Public safety personnel are trained to do.
8. The bill does not explicitly exempt illegal assault weapons from the public auction preference. Subsection (a) could be used by DPS to claim such sale would be "inappropriate," but it would be better if the auctions were expressly limited to otherwise legal weapons.

Sincerely,



John A. Danaher III
COMMISSIONER